

OGC Has Reviewed

LS-1944
Subject
322

25X1A

ATTN :

FE/ADMIN

19 December 1952

Office of the General Counsel

Sources of Law and Regulation for Payment of Territorial Post
Differentials and Allowances

1. You have requested that we furnish you with extracts from applicable laws and regulations on the payment of territorial post differentials and allowances.

2. Section 207 of Public Law 491 of the 80th Congress as amended by Section 104 of Public Law 852 of the 80th Congress provides:

"Sec. 207. Any appropriations or funds available to the executive department, independent establishments, and wholly owned Government corporations for the payment of salaries and compensation to persons stationed outside the continental United States or in Alaska whose rates of basic compensation are fixed by statute, shall be available for the payment of additional compensation to such persons, based on living costs substantially higher than in the District of Columbia, or conditions of environment which differ substantially from conditions of environment in the States and warrant additional compensation as a recruitment incentive, or both such factors: Provided, That such additional compensation, except as otherwise specifically authorized by law, shall be paid only in accordance with regulations prescribed by the President establishing rates of such additional compensation and defining the area, groups of positions, and classes of persons to which each such rate applies: Provided further, That no additional compensation based on living costs substantially higher than in the District of Columbia shall be paid under this section to any person who is entitled to receive a cost-of-living allowance under section 901(2) of the Foreign Service Act of 1946 (22 USCA 1131(2)) or section 204 of this Act: Provided further, That such additional compensation shall not exceed in any instance 25 per centum of the rate of basic compensation: Provided further, That this section shall be effective sixty days after the date of approval of this Act, or on such earlier date as may be specified in regulations issued by the President hereunder, and additional compensation payable under regulations and procedures in effect on the date of approval of this Act may continue to be paid until the effective date of this section."

3. Pursuant to Section 207, the President issued Executive Order 10000 on 16 September 1948. This appears in 3 Code of Federal Regulations, 1948 Supp., page 202 and prescribes "the following regulations (1) governing the payment of additional compensation to personnel of the United States employed outside the continental United States or in Alaska, under the provisions of the said Section 207, as amended."

Part II covers the payment of additional compensation in the "Territories" which by definition includes the Trust Territory of the Pacific Islands.

Section 202 provides:

"Additional compensation by reason of environment. The United States Civil Service Commission shall from time to time, subject to applicable law, (a) designate places in Territories having conditions of environment which differ substantially from conditions of environment in the United States and warrant additional compensation as a recruitment incentive, (b) fix for each such place the additional rate or rates of compensation to be paid by reason of such environment pursuant to section 207 of the Act, after giving due consideration to the degree of environmental difference, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as "Territorial post differential."

Section 205 provides:

"Additional living cost compensation. (a) The United States Civil Service Commission shall from time to time, subject to applicable law, (1) designate places in the Territories where it determines that living costs are substantially higher than in the District of Columbia, (2) fix for each place so designated an additional rate or rates of compensation to be paid by reason of such higher living costs pursuant to section 207 of the Act, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as "Territorial cost-of-living allowance."

4. The Regulations of the Civil Service Commission prescribing payment of territorial post differentials and territorial cost-of-living allowances are printed as Part 350 of Title 5, Code of Federal Regulations (1949 edition).

Section 350.7 provides:

"Coordination of territorial post differentials and territorial cost-of-living allowances. At any place for which both a territorial post differential and a territorial cost-of-living allowance have been established, each employee eligible to receive a territorial cost-of-living allowance shall receive the full territorial cost-of-living allowance otherwise payable to him under the regulations in this part. Any such employee who receives a territorial cost-of-living allowance which is less than 25 percent of his rate of basic compensation shall receive, in addition, any territorial post differential otherwise payable to him under these regulations, but only at such rate that his total additional compensation under the regulations in this part (including territorial cost-of-living allowance and territorial post differential) will not exceed 25 percent of his rate of basic compensation."

Section 350.10 provides:

"Places and rates at which territorial post differentials shall be paid. In accordance with the provisions of section 207 of the act and section 202 of Executive Order 10000 (§301.22 of this chapter), and based on (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions, territorial post differentials are established at the following places and rates:

American Samoa (including the island of Tutuila, the Manua Islands, and all other islands of the Samoan group east of longitude 171° west of Greenwich, together with Swains Island): 25 percent of rate of basic compensation.

Guam: 25 percent of rate of basic compensation.

Johnston or Cornwallis Island, and Sand Island:
25 percent of rate of basic compensation.

Midway Islands: 25 percent of rate of basic compensation.

Wake Islands: 25 percent of rate of basic compensation.

Swan Islands: 25 percent of rate of basic compensation.

Palmyra Island: 25 percent of rate of basic compensation.

Canton Island: 25 percent of rate of basic compensation.

The Trust Territory of the Pacific Islands (which comprises the Caroline, Marshall, and Mariana Islands, except Guam): 25 percent of rate of basic compensation."

No territorial cost-of-living allowance is provided for the above areas.

5. Section 207 of Public Law 491 of the 80th Congress as amended, Executive Order 10000 and the Civil Service Commission Regulations constitute the sole authority for payment of salary differentials and allowances for Government personnel serving in the indicated areas. Deviation from the standards of these authorities must have an operational basis in the sense that the hardship upon individuals concerned derives from the peculiar requirements which the unique functions of this Agency impose upon them.

25X1A



OGC/GHK:imm

Distribution -

Orig - Addressee

4 - OGC